

**STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD**

IN THE MATTER OF

**University Manor
Condominium Owners,**
Petitioner-Appellant,

v.

Jefferson County Board of Review,
Respondent-Appellee.

ORDER

**Docket No. 09-51-0300
Parcel No. 06-24-100-001**

On October 14, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant, University Manor Condominium Owners (University Manor), was represented by its manager, Jeffrey Turnbull. Turnbull participated by phone. The Jefferson County Board of Review designated Attorney Brett Ryan of Willson & Pechacek, P.L.C., Council Bluffs, Iowa, to represent it. A digital record of the proceedings was made. The Appeal Board having reviewed the entire record, having heard the testimony, and being fully advised, finds:

Findings of Fact

University Manor, lessee of land located at 1000 & 1100 University Manor Drive, Fairfield, Iowa, appeals from the Board of Review decision reassessing its property. The property is subject to a 75-year lease with property owner Maharishi University of Management (MUM). The property is improved with two buildings having a total of forty-eight condominium

units which are separately assessed and not part of this appeal. The property was classified as residential with an assessed land value of \$294,800 in the January 1, 2009, assessment.

University Manor protested to the Board of Review on the grounds that 1) the property assessment was not equitable as compared with the assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); 2) the property was assessed for more than authorized by law under section 441.37(1)(b); and 3) that there is an error in the assessment under 441.37(1)(c), asserting in his written statement that “land-share plus condo assessment is not market”, or essentially reasserting a market value claim. It sought a reduction in value to \$30,000. The Board of Review denied the protest.

University Manor reasserts its claims to this Board and adds the claims of fraud and downward change in value. The claims of fraud and downward change were not made to the Board of Review and will not be considered by this Board.

According to the property record card, the subject parcel is a 3 acre site improved with utilities and landscaping, and has a private, paved driveway used for access and parking. The parcel is located in the far north edge of the MUM campus near a railroad right-of-way. According to Mr. Turnbull, the property has negative characteristics that reduce its value including an irregular shape that limits the buildable portion of the property, a private street running through the property, costly street maintenance, and a portion of the land is low with poor drainage. He believes these features make only half of the parcel useable. In Mr. Turnbull’s opinion, access through the adjacent mobile home park further reduces the value of the property.

University Manor provides several assessments of properties and attempts to demonstrate inequities in the site value assessments. However, the properties included for its analysis include

smaller single-family residential sites, condominium properties with allocated site values, and larger sites purchased for development. University Manor did not provide any logical connection between these properties and the subject site.

University Manor also provided several sales it considered comparable. These sites range from roughly 15,000 square feet to just over an acre. No adjustments were made to recognize differences between these sites and the subject site. Again, University Manor offers evidence, however fails to provide this Board with meaningful comparisons or analysis supporting its assertion the property is over-assessed.

University Manor supplied a property-card for a neighboring commercially classified trailer park, and indicates the site is exempt. The subject site is not exempt and as such, we consider this comparison invalid. It also asserts that since 10% of the units in University Manor are owned by the Maharishi University of Management (MUM), an exempt entity, it should realize an equal portion (10%) of its site as exempt. However, Jeffery Turnbull acknowledged during his testimony that University Manor does not have a claim of exemption before this Board. Therefore, we will not consider this claim.

Lastly, University Manor indicates “the average rental of a two-bedroom condominium is \$575,” although it does not provide any data to show how this average rent was determined from the market. Turnbull provides weak testimony as to how the rents of improved properties would have bearing on site value.

The Jefferson County Board of Review offered limited evidence, submitting only the property record card of the subject, and an update to a previously completed appraisal on the subject site. The original appraisal was completed in September 2007 by Don Ulm of Hayes Real Estate Appraisers. Ulm appraised the subject site, at that time, for \$319,000. Ulm has since

updated his appraisal report to reflect an effective date of June 23, 2010. Ulm indicates there is “not enough reliable data to make a change in the value concluded in the original appraisal.” We give Ulm’s appraisal minimal consideration. While it could be concluded that there was no change on the assessment date of January 1, 2009, based upon there being no change between September 2007 and June 2010; there was no testimony from Ulm indicating his opinion on the January 1, 2009, value.

The Board of Review relied upon Bob Ehler of Vanguard Appraisal for testimony in this matter. Ehler attempted to explain the valuation process stating that “comparable properties” would have been used to determine the value of the subject site. However, Ehler testified that while his company took part in previous valuations of the subject site in 2005, he was not personally involved in that analysis, nor did he or his company have any involvement in the January 1, 2009, valuation. As such, it is unclear why Ehler was called to testify as he provided no credible or relevant testimony.

Reviewing all the evidence, we find the preponderance of evidence does not support University Manor’s contention the subject property is inequitably assessed or assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law in this appeal.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal

Board considers only those grounds presented to or considered by the Board of Review.

§ 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

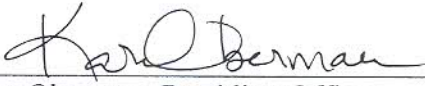
Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). And although University Manor compared its assessed land value per acre or per square foot with the assessments and sale prices of surrounding residential land, it did not show the assessor applied methods improperly or without uniformity. This comparison does not support a finding that University Manor is inequitably assessed.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The evidence did not support University Manor's claim that the property was assessed for more than authorized by law when compared to residential sales on the MUM campus. We reject its argument that portions of the land are worthless or have a discounted value because it cannot be built upon, are used for access and parking, or provide green space for condominium dwellers. We note that relief was given by the Board of Review in its 2007 assessment for the parcel's shape, proximity to public trails and low, poorly-drained areas. This relief was also applied to the 2009 assessment.

Viewing the evidence as a whole, we determine the preponderance of evidence was lacking to support University Manor's claims. Therefore, we affirm the University Manor property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$294,800.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Jefferson County Board of Review is affirmed.

Dated this 14 day of DECEMBER 2010.


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-14, 2010</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	